

LABOUR DEPARTMENT

The 4th October, 1978

No. 11(112)-3 Lab-78/8742.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Snowtamp Engineering Company Ltd., Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 49 of 1977

between

SHRI RADHEY SHYAM TYAGI, WORK-
MAN AND THE MANAGEMENT OF
M/S SNOWTAMP ENGINEERING
COMPANY LTD., FARIDABAD

Present—

Shri K. L. Sharma, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID7FD/1038-A-76/19813, dated 19th May, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Snowtamp Engineering Company Ltd., Faridabad and its workman Shri Radhey Shyam Tyagi, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Radhey Shyam Tyagi was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The

parties appeared and filed their pleadings. On the pleading of the parties, the following issues were framed on 2nd September, 1977:—

- (1) Whether the workman concerned abandoned his job of his own?
- (2) If issue No. 1 is not proved, whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined Shri S. Gandotra, their Administrative Officer, as M.W. 1 and Shri H. L. Kapoor, Assistant to Shri S. L. Gupta, representative for the management, as M.W. 2 and Shri Hari Kesh, Clerk, Labour Inspector, as M.W. 3 and closed their case.

Then the case was fixed for the evidence of the workmen. The workman examined himself as W.W. 1 and one Shri Raja Ram, another workman, as W.W. 2 and closed this case.

Arguments were heard. I now give my finding issuewise.

ISSUE NO 1:

M.W. 1 stated that the workman had resigned of his own and resignation was accepted and the acceptance was communicated to the workman. He did not receive his dues, telling that he shall come the other day to receive the same and the workman had not completed one year of service, the workman had made a complaint to the Labour Inspector and when Shri Kapoor, the Assistant to their authorised representative, was returning from the office of the Labour Inspector, the workman assaulted him and snatched papers from him. In cross-examination he stated that he did not report the matter to the police as Mr. Kapoor had told him that the workman had threatened him to kill him if the matter was reported to the police. He further stated that he reported the matter to the Conciliation

Officer during conciliation proceedings. He expressed his ignorance that the workman was an active trade unionist. He had no written complaint against the workman but he had oral complaint against him about his misbehaviour. He denied a suggestion that the resignation was a concocted story. M.W. 2 Shri H. L. Kapoor, Assistant to Shri S. L. Gupta, authorised representative for the management, stated that when he was returning from the office of the Labour Inspector, the workman met him and told him that the case has been adjourned. The workman then tried to strike his cycle at his cycle in order that M.W. 2 might fall. The workman concerned took away the file from him and took over the resignation letter from him and other relevant papers also. The workman did not take away any other file or paper from any other file. In this scuffle he was able to take out some papers from the hands of the workman concerned together with the file cover. The workman was accompanied by two associates who manhandled him together with the workman in an highly uncivilised manner and threatened to kill him, if he brought this incident to the notice of the police. He produced three pieces of the written papers marked XYZ. Piece of paper marked Z was put to the witness, whether he admitted or denied his writing thereon. The workman replied that he could not say whether that was in his hand or not. The workman further stated that he can write on a certain piece of paper and will then compare that writing with the writing on paper marked Z and thereafter could say whether the writing on mark Z was his or not. In cross-examination Shri Kapoor stated that he could not recognise the associates of the workman. He had told the incident to the management on phone. He had raised alarm but none came to his help, as there was none on the road. He had sustained injury also when he fell down. He came to his office and got first-aid from the dispensary near his office. He denied a suggestion that he had deposed falsely at the instance of Shri S. L. Gupta, his senior representative. He further denied a suggestion that he himself had torn

the papers out of that file in connivance with the management. M.W. 3 the clerk of the Labour Inspector deposed that the case was fixed for 6th July, 1976. It was recorded in the complaint of the workman that the management had asked him to give resignation on 20th June, 1976 and on his refusal, it was stated that the workman was threatened and that the management had assured the workman that his resignation was required due to some special circumstances and he shall not be turned out. It was also recorded in that complaint that it all proved false and the workman was not taken on duty on 21st June, 1976. He wanted to see concerned officers of the management but he was not allowed to see him due to want of time. Date 13th July, 1976, was fixed in this matter for exploring possibility of settlement but no body turned up hence the Labour Inspector ordered that no action was needed.

W.W. 1 the workman stated that he was disallowed work on and from 21st June, 1976. He had formed a union and thereafter he was harrassed by the management by changing duty shift often. He admitted that once or twice Shri Kapoor, M.W. 2, had appeared in the office of the Labour Inspector. He denied the incident. He then admitted his hand writing on paper marked Z, although he had not stated so previously, when this document was specifically put to him and he had then stated that he can compare his writing on mark Z with the writing which he will make then and thereafter he could say whether this writing on mark Z was his or not. He denied that he torn the pieces of papers marked XYZ from the rest of the portion of these papers. In cross examination he stated that when the writing on paper marked Z was put to him previously he was in doubt whether the management might not have forged the writing of mark Z. He admitted that there were 3/4 adjournments before the Labour Inspector and he had appeared there on all the dates and Mr. Kapoor had also appeared on the second date of hearing. He could not tell the location of Dimple Factory

whereas Shri Kapoor has been cross-examined about the location of this factory to bring out that some body could come to rescue Shri H. L. Kapoor from Dimple Factory which was 20 or 25 yards away from the place of occurrence. He denied that he did not know whether Dimple Factory was located on the turning point to Labour Office from Mathura Road. He did not know the name of the factory, although his representative cross-examined Shri H. L. Kapoor with the name of this factory. He could not say as to how many workers were members of the Union. He further stated that there was never any feelings between Shri Banerjee and him. He further stated that Shri D. K. Sharma had asked him to give resignation but he had refused but complained to none regarding Shri Sharma asking his resignation. He also admitted that there was no feeling between Shri Sharma and himself but he thereafter told that Sharma had asked him to disassociate from the union. He denied that he offered resignation of his own. He denied to have snatched the file and papers from Shri Kapoor and had torn some papers from his alleged resignation. He further admitted that the management had got his signatures on the remaining portion of the papers marked 'X. W.W. 2 stated that the management had asked the workman to tender resignation and he knew nothing about the quarrel. In cross-examination he stated that the union had not been registered till 28th March, 1978 and did not know even the name of the trade union. He stated that in 1975, the union was in the process of the formation. He admitted that the management did not ask him to resign although he was also a member of the union. He further stated that he did not know whether the management asked any other workman to resign. He also stated that he had not gone to the Labour Office. Exhibit M-1, reply to the demand notice contain that the workman had torn and snatched the papers from Shri H. L. Kapoor and assaulted him. Exhibit M-2 and M-3 are conciliation proceedings which also contained that the management had stated there that the workman had resigned and had snatched away and torn papers from the

representative of the management and the representative was assaulted. Mark X is a piece of temporary appointment letter, it is dated 24th June, 1975. About this the workman had stated that the management got it signed from him. Regarding this appointment letter, the workman had stated that the full paper of mark X was not given to him. Mark Y is also a piece of temporary appointment letter from the management. It also bear the date of the application of the workman as 24th June, 1975. Mark Z reads that the workman had been working in the commmanding from 23rd June, 1975, but the other subject matter beyond 'But' has been torn away. The complaint of the workman to the Labour Inspector reads that the workman was asked to resign on 20th June, 1976 and when he did not resign, he was threatened and that resignation was required for some special circumstances and the workmen shall not be turned out. It further reads that very painfully it proved false and he was not taken on duty on 21st June, 1976. He wanted to see the Manager but he could not see.

From the consideration of all the evidence, it appears that the workman had resigned. His complaint to the Labour Inspector proves that he had resigned. Because he had narrated therein that the management had demanded his resignation and had assured him that he shall not be turned out and the resignation was required for some special circumstances. Thereafter the workman has written that he was pained very much as it proved false meaning thereby that an assurance of the management proved false and he was not taken on duty on 21st June, 1976. The workman himself has given a copy of his letter, dated 22nd June, 1976 which he wrote to the Labour Inspector. The clerk of the Labour Inspector who had appeared as M.W. 3 has also placed on file a copy of proceedings of the Labour Inspector together with the copy of the said complaint letter, dated 22nd June, 1976 sent to the Labour Inspector by the workman, both tally.

I believe the statement of Shri H. L. Kapoor who is Assistant to Senior authorised representative for the management. Moreover, the papers marked XYZ which are torn pieces also indicate that papers have been torn and snatched away. Furthermore, the last word on mark Z "But" given some clue or meaning that it might be the resignation of the workman. The workman admitted it in his own hand at the later stage, but when it was specifically put to him by the Presiding Officer to admit or deny his handwriting on it, he answered that he could not say and that he could be able to say, if he wrote at that time on some piece of papers and compared that writing with the writing on mark Z, whether writing on mark Z was in his hand or not. So clever is the workman. Shri H. L. Kapoor has stated on S.A. and he is a junior representative to a senior representative for the management. All the circumstances leads me to conclude that the workman had resigned, reasons unknown but he felt thereafter the consequences of his resignation and then snatched away some papers from Shri H. L. Kapoor which were torn also and a sort of scuffle took place. I, therefore, decide issue No. 1 in favour of the management,
ISSUE No. 2—

As issue No. 1 has been proved in favour of the management. The management has not terminated the services of the workman. Mark X and Y suggests

that the workman had been appointed temporarily on 24th June, 1975 and he was issued temporary appointment letter. His resignation was given on 21st June, 1976, i.e., prior to one year of service but as has been held by me that it was not the management who terminated his services, it was the workman who himself resigned and abandoned his job. Thereby I decide this issue accordingly.

While answering the reference, I give my award that the management had not terminated the services of the workman. The workman had resigned. He is not entitled to any relief.

Dated, the 28th September, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 880, dated the 21st September, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

G. V. GUPTA, Secy.

CO-OPERATION DEPARTMENT

The 2nd November, 1978

No. 5833-CIV-78/30031.—The Governor of Haryana is pleased to constitute a State Level Co-ordination Committee for reviewing the progress and studying problems/difficulties in the implementation of world Bank Co-operative Storage project consisting of the following :—

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| 1. Commissioner and Secretary to Government Haryana, Co-operation Department. | Chairman |
| 2. Secretary to Government, Haryana, Agriculture Department. | Member |
| 3. Commissioner and Secretary to Government, Haryana, Finance Department. | Member |
| 4. Engineer-in-Chief P. W. D. (B and R) Haryana. | Member |
| 5. Managing Director, Haryana State Co-operative Bank Ltd., Chandigarh. | Member |
| 6. Managing Director, Haryana State Co-operative Supply and Marketing Federation Ltd. Chandigarh. | Member |
| 7. Secretary, National Co-operative Development Corporation, New Delhi. | Member |
| 8. Registrar, Co-operative Societies, Haryana, Chandigarh. | Member-Secretary |
| 2. Three members shall form the quorum for a meeting. | |
| 3. The Headquarter of the Committee will be at Chandigarh. The Committee will meet monthly or at such other intervals as may be considered by the Chairman. | |
| 4. The travelling allowance and daily halting allowance will be drawn by the members from their respective departments. | |

KULWANT SINGH, Comm. and Secy.